Registry of the Competition Tribunal

2012-13

Departmental Performance Report

Honourable James Moore
Minister of Industry

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Minister's Message

I am pleased to report on the Industry Portfolio's key activities for 2012-2013.

During this period, the Portfolio continued to develop and recruit leading research talent through programs administered by the federal granting councils. It also took significant steps to improve commercialization outcomes through the transformation of the National Research Council into an industry-focused research and technology organization. This was complemented by reinvestments in programs such as the College and Community Innovation Program and the Centres of Excellence for Commercialization and Research.

The Competition Tribunal continued to exercise its judicial role and pursued matters such as banking and credit card services, real estate brokerage services, airline transborder joint ventures and the provision of water heaters. The outcomes of the hearings into these significant and complex cases could result in greater benefits for all Canadian consumers and could influence business practices across Canada.

Moving forward, the Industry Portfolio will continue to exercise fiscal responsibility while delivering on government priorities to support jobs and economic growth. Portfolio agencies will continue to play key roles in encouraging collaboration between the research community and the private sector; strengthening the manufacturing sector to sustain and attract globally competitive industries; and bringing forward the government's response to the Review of Aerospace and Space Programs and Policies to maintain Canada's leadership position in those areas.

It is my pleasure to present the 2012–13 Departmental Performance Report for the Registry of the Competition Tribunal.

James Moore
Minister of Industry

Section I: Organizational Overview

Raison d'être

The Competition Tribunal established in 1986, is an independent, quasi-judicial tribunal established under the *Competition Tribunal Act* to hear applications brought by the Commissioner of Competition or a private party, depending on the circumstances, under various parts of the *Competition Act*. The purpose of the *Competition Act* is to maintain and encourage competition in Canada. The Tribunal hears applications related to deceptive marketing practices, such as misleading advertising, under Part VII.1. The Tribunal also has jurisdiction to hear references as well as applications brought pursuant to Part VIII, which sets out restrictive trade practices such as exclusive dealings.

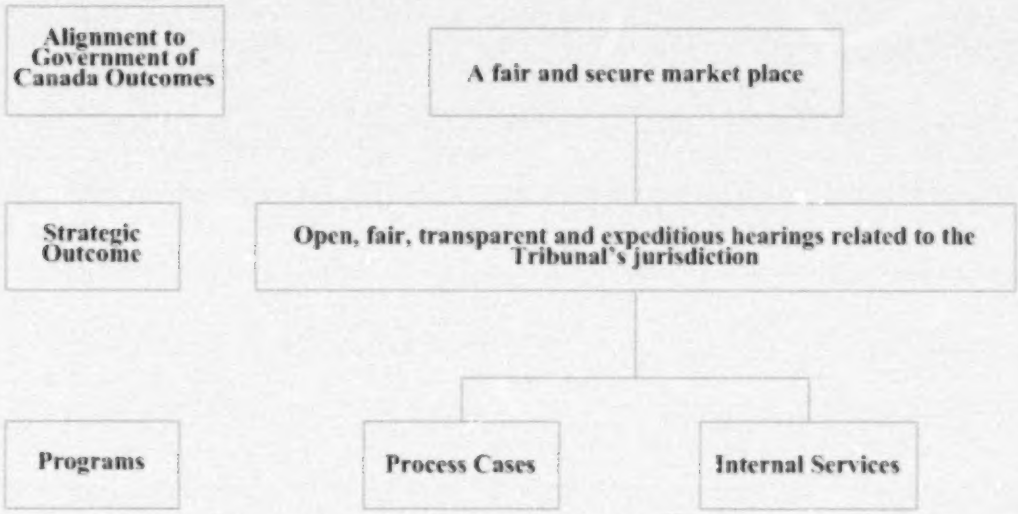
Responsibilities

Since its creation in 1986, the Tribunal has heard cases relating to mergers, abuse of dominance, deceptive marketing and various trade practices that have involved key players in several industries. Cases have involved a number of business areas, including furniture stores, importers of cast iron pipes, airline computer reservation systems, community newspapers, aspartame, waste disposal, car parts, weight-loss products, fuel-saving devices, fireplace maintenance products, banking and credit card services, poultry supply, career management services and real estate brokerage services.

The *Competition Tribunal Act* provides for an administrative infrastructure in support of the workings of the Competition Tribunal, through the Registry of the Competition Tribunal. The Registry of the Competition Tribunal is designated a department under Schedule I.1 of the *Financial Administration Act* and therefore must adhere to federal public administration policies including the preparation of this Departmental Performance Report. This Report pertains to the activities of the Registry in support of the Tribunal and its deliberations, and not to Tribunal cases themselves.

The Registry of the Competition Tribunal supports all aspects of the Tribunal's work and ensures that the Tribunal can hold hearings across Canada, as required. The Registry is also the repository for filing applications, consent agreements, and documents, as well as issuing documents and orders for all cases brought before the Tribunal. The office of the Registry of the Competition Tribunal is located in the National Capital Region.

Strategic Outcome and Program Alignment Architecture


Alignment to Government of Canada Outcomes
A fair and secure market place
Strategic Outcome
Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction
Programs
Process Cases
Internal Services

Organizational Priorities

Priority	Type[1]	Strategic Outcome
Support the implementation of electronic hearings for all cases heard by the Tribunal	New	Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction.
Summary of Progress		
What progress has been made towards this priority? • Two complex major cases were heard using the electronic hearing system after the Tribunal issued a notice to the profession stating that the electronic hearing system would be used for virtually all hearings before the Tribunal. The post-hearing feedback received from the parties and Tribunal members has been very positive. The Registry continued to improve its system based on the feedback received. • All decisions posted on the website now meet the Web accessibility requirements set out in the Treasury Board's Standard on Web Accessibility.		

[1] Type is defined as follows: **previously committed to**—committed to in the first or second fiscal year prior to the subject year of the report; **ongoing**—committed to at least three fiscal years prior to the subject year of the report; and **new**—newly committed to in the reporting year of the RPP or DPR. If another type that is specific to the department is introduced, an explanation of its meaning must be provided.

Priority	Type	Strategic Outcome
Provide Continuous Learning Opportunities to Tribunal Members	Ongoing	Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction.

Summary of Progress

What progress has been made towards this priority?

- The complex cases scheduled in this fiscal year provided nine Tribunal members with opportunities to become actively involved in Tribunal hearings. Because of this busy schedule, the Tribunal's annual meeting was postponed to allow the Tribunal to focus on hearings and the issuing of decisions. Tribunal members were able to put their theoretical knowledge of economics into practice and were exposed to the complexities of inter-related nationwide competition issues. The decisions resulting from Tribunal hearings often have a significant impact on consumers and some sectors of the economy.

Priority	Type	Programs
Support the all-of-government spending review by identifying initiatives to improve effectiveness or operations and service delivery	New	• Process Cases • Internal Services

Summary of Progress

What progress has been made towards this priority?

- Use of the hearing room has increased significantly as a result of our revised approach which involves making the hearing room more available to other judicial organizations. Also, a proposal has been developed to expand use of the Tribunal's library and make its competition law collection more accessible to Federal Court judges hearing competition cases.
- The introduction of electronic hearings started to result in a decrease in the amount of printed paper required for major hearings.

Priority	Type	Strategic Outcome
Develop partnerships with other organizations to provide learning opportunities to employees	Ongoing	Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction.
Summary of Progress		
What progress has been made towards this priority? • Our previous experience with providing learning opportunities for staff in other organizations has been beneficial for the employees involved and for the Registry. During the year, greater emphasis was placed on aligning the number of resources with the workload, while maintaining our level of service to the Tribunal. The number of staff involved in this initiative increased from three to six, out of a complement of eight at the end of March 2013.		

Risk Analysis

Risk	Risk Response Strategy	Link to Program Alignment Architecture	Link to Organizational Priorities
The Registry faces a substantial, ongoing planning challenge in that the Tribunal's sole function is to respond to the matters referred to it. Its activities are driven by external demands that it can only react to rather than plan for.	• The Registry must be in a state of readiness to provide support for the Tribunal's work. The hiring of a casual employee increased the resources for hearings to an appropriate level and provided assistance for the completion of short-term projects. • This risk was identified in the 2012–13 Report on Plans and Priorities, and the course of action to mitigate the risk was followed throughout the year.	• Process Cases	Support the implementation of electronic hearings for all cases heard by the Tribunal
The use of an electronic hearing system for virtually all hearings requires that Tribunal members and staff be comfortable with the technology used for electronic hearings.	• The Registry provided ad hoc training for members and staff to ensure a smooth transition to electronic hearings. The feedback on electronic hearings received from members and parties was very positive. • This risk was identified in the 2012–13 Report on Plans and Priorities.	• Process Cases	Support the implementation of electronic hearings for all cases heard by the Tribunal

A micro organization like the Registry can only offer limited professional development opportunities to staff.	• The Registry placed greater emphasis on resource sharing than in previous years, but managed to maintain its performance in the delivery of mandate-related support activities. • This risk was also identified in the 2012–13 Report on Plans and Priorities	• Process Cases • Internal Services	Develop partnerships with other organizations to provide learning opportunities to employees

Summary of Performance

Financial Resources – Total Departmental ($ thousands)

Total Budgetary Expenditures (Main Estimates) 2012–13	Planned Spending 2012–13	Total Authorities (available for use) 2012–13	Actual Spending (authorities used) 2012–13	Difference (Planned vs. Actual Spending)
2,326	2,326	2,434	1,737	589

Human Resources (Full-Time Equivalents — FTEs)

Planned 2012–13	Actual 2012–13	Difference 2012–13
14	8.5	5.5

Performance Summary Table for Strategic Outcome and Programs ($ thousands)

Strategic Outcome: Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction.

Program	Total Budgetary Expenditures (Main Estimates 2012–13)	Planned Spending			Total Authorities (available for use) 2012–13	Actual Spending (authorities used)			Alignment to Government of Canada Outcomes
		2012–13	2013–14	2014–15		2012–13	2011–12	2010–11	
Process Cases	1,745	1,745	1,745	1,745	1,835	1,354	1,020	838	A fair and secure market place
Strategic Outcome Sub-Total	1,745	1,745	1,745	1,745	1,835	1,354	1,020	838	

Performance Summary Table for Internal Services ($ thousands)

Internal Services	Total Budgetary Expenditures (Main Estimates 2012–13)	Planned Spending			Total Authorities (available for use) 2012–13	Actual Spending (authorities used)		
		2012–13	2013–14	2014–15		2012–13	2011–12	2010–11
	581	581	581	581	598	383	569	688
Sub-Total	581	581	581	581	598	383	569	688

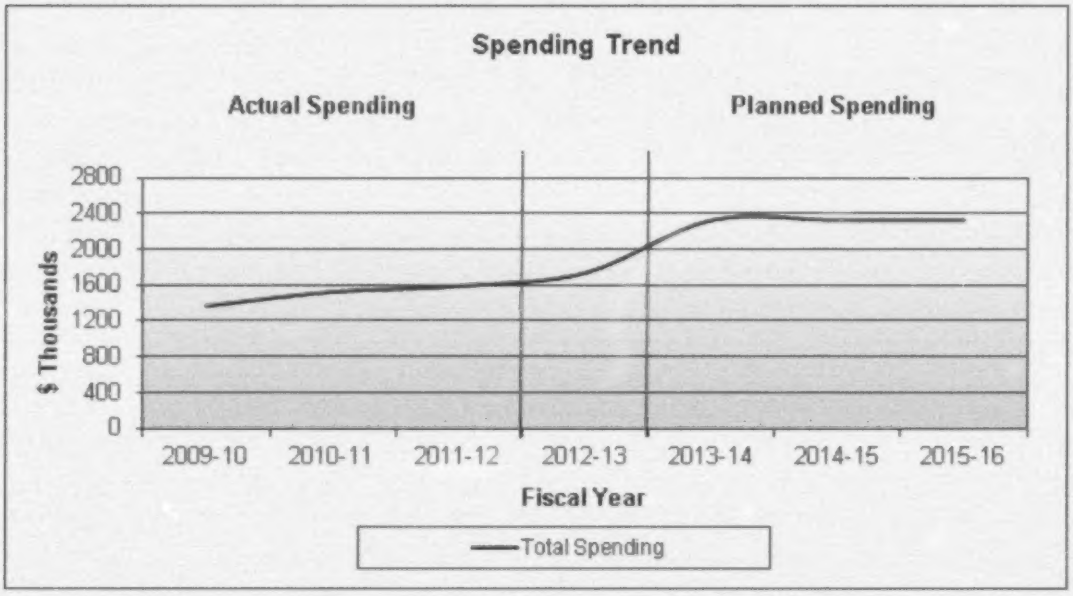
Total Performance Summary Table ($ thousands)

Strategic Outcome and Internal Services	Total Budgetary Expenditures (Main Estimates 2012–13)	Planned Spending			Total Authorities (available for use) 2012–13	Actual Spending (authorities used)		
		2012–13	2013–14	2014–15		2012–13	2011–12	2010–11
	2,326	2,326	2,326	2,326	2,433	1,737	1,589	1,526
Total	2,326	2,326	2,326	2,326	2,433	1,737	1,589	1,526

The variance between the planned spending for the year and the actual spending is mainly due to a major case that was settled a few weeks prior to the hearing. Expenses related to lay members' travel and salaries as well as to court reporting services, printing costs and casual employees did not have to be incurred for that hearing, which had been expected to last between four and six weeks.

Expenditure Profile

Departmental Spending Trend



The slight increase in spending in 2012–13, compared with the previous two fiscal years, is mainly due to the number and location of hearings held during the year. The Tribunal's first out-of-town electronic hearing was held in Toronto in September 2012. Out-of-town hearings are always more expensive than hearings in the Tribunal's hearing room in Ottawa. The number of human resources used during the fiscal year is comparable to that of the last two fiscal years.

Estimates by Vote

For information on the Registry of the Competition Tribunal's organizational Votes and/or statutory expenditures, please see the *Public Accounts of Canada 2013 (Volume II)*. An electronic version of the *Public Accounts 2013* is available on the Public Works and Government Services Canada's website[i].

Section II: Analysis of Programs by Strategic Outcome

Strategic Outcome

Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction.

Programs:

- Process Cases
- Internal Services

Strategic Outcome: ***Open, fair, transparent and expeditious hearings related to the Tribunal's jurisdiction.***		
Performance Indicators	**Targets**	**Actual Results**
Client level of satisfaction regarding quality of services	80% or more of clients are satisfied with the level of service received from the Registry	Our measurement of client satisfaction is based on feedback obtained from the parties to cases heard by the Tribunal. This year, we obtained a satisfaction rating of 89% and no negative feedback was received through the website.
Tribunal members' level of satisfaction regarding quality of service	80% or more Tribunal members are satisfied with the level of service received from the Registry	The feedback obtained from Tribunal members concerned the quality of services provided by the Registry throughout a hearing life cycle. This year, we reached a satisfaction rating of 82%.

This was the first year that the Tribunal held electronic hearings, which took place in Ottawa and Toronto. This new approach required the use of new technology and affected the work of Tribunal members and parties to the cases. The hearings lasted from four to six weeks, which gave the parties and members enough time to become familiar with the new technology and the flow of proceedings. Improvements were proposed after the first hearing and resulted in even more positive feedback after the subsequent hearing. Out of those who replied to our survey, 89% said that the new hearing room procedure and technology for hearings were more efficient. Tribunal members were also very pleased with the new approach.

Programs

Process Cases

The Registry of the Competition Tribunal's main program is to process cases by providing the public with efficient access to case documents and decisions, as well as with efficient hearing support services.

The Tribunal hears cases and the Registry manages the material for the cases heard by the Tribunal under Part VII.1 (Deceptive Marketing Practices) and Part VIII (which includes Restrictive Trade Practices) of the *Competition Act*.

Financial Resources — For Program Level ($ thousands)

Total Budgetary Expenditures (Main Estimates) 2012–13	Planned Spending 2012–13	Total Authorities (available for use) 2012–13	Actual Spending (authorities used) 2012–13	Difference 2012–13
1,745	1,745	1,835	1,354	391

Human Resources (Full-Time Equivalents — FTFs) — For Program Level

Planned 2012–13	Actual 2012–13	Difference 2012–13
10	6	4

Performance Results — For Program Level

Expected Results	Performance Indicators	Targets	Actual Results
Timely registry services that provide efficient access to case records and decisions.	Percentage of non-confidential case documents and decisions posted on the website within 48 hours of filing.	90%	All documents (100%) were posted within 24 hours of receipt of confirmation that the documents did not contain confidential information.
Documents that are processed according to timeframes established in the *Competition Tribunal Rules*.[11]	Documents processed within established time frames.	100%	The current *Competition Tribunal Rules* were established some time ago and there was no staff turnover in the Registry this year; therefore all documents (100%) were processed within the set time frames.
Efficient access to electronic processing of applications.	Percentage of documents filed using the e-filing system.	50%	Following the issuing of the notice to the profession stating that hearings would be held electronically, there was increased use of the e-filing system, compared with regular email. Over 60% of documents filed for large-scale hearings were filed using the e-filing system.

Performance Analysis and Lessons Learned

There was a slight decrease in the number of new proceedings filed this year, compared with 2011–12. This was offset by the hearing of two major cases that required a significant amount of Registry time and resources. Now that the Tribunal has moved to electronic hearings, parties and Tribunal members require slightly more assistance at the start of hearings. The feedback received from all parties on the use of e-filing and electronic hearings has been very positive, and the Tribunal will continue to make greater use of this technology for future hearings.

Number of Proceedings

	2012-13	2011-12
Number of proceedings filed	**5**	7
Number of proceedings completed	**6**	4
Number of proceedings filed from previous years and still ongoing	**4**	5
Number of decisions rendered	**21**	35

Internal Services

Internal Service is an umbrella term for activities under the Registry's administration that meet program needs and other corporate obligations. These activities are management and oversight, communications, legal services, human resources management, financial management, information management, information technology, real property, material, acquisition, travel, and other administrative services.

Financial Resources — For Program Level ($ thousands)

Total Budgetary Expenditures (Main Estimates) 2012–13	Planned Spending 2012–13	Total Authorities (available for use) 2012–13	Actual Spending (authorities used) 2012–13	Difference 2012–13
581	581	598	383	199

Human Resources (Full-Time Equivalents — FTEs) — For Program Level

Planned 2012–13	Actual 2012–13	Difference 2012–13
4	2.5	1.5

Performance Analysis and Lessons Learned

Employee turnover was fairly low for a second year in a row. This provided better continuity of operations and enabled the organization to enhance the functionalities of its e-filing system with a view to making the system more user friendly while meeting the requirements of Treasury Board's directive on the Management of Information Technology.

The sharing of resources between organizations provides staff with professional development opportunities as well as a greater number of career advancement opportunities. Some employees fully support this initiative and have used these professional development opportunities to further their careers. Assignment opportunities continued to be assessed on a case-by-case basis with the organization's workload taken into consideration. Six employees were participating in professional development assignments or were shared between organizations at the end of March 2013.

Section III: Supplementary Information

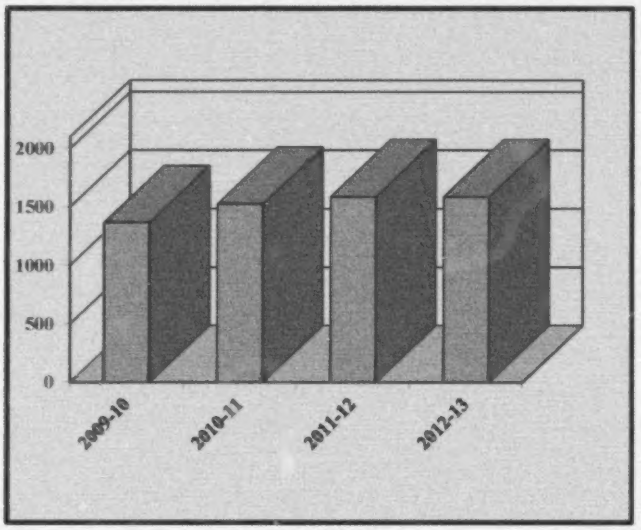
Financial Statements Highlights

Condensed Statement of Operations and Departmental Net Financial Position

Registry of the Competition Tribunal Condensed Statement of Operations and Departmental Net Financial Position (Unaudited) For the Year Ended March 31, 2013 ($ thousands)					
	2012–13 Planned Results	2012–13 Actual	2011–12 Actual	$ Change (2012–13 Planned vs. Actual)	$ Change (2012–13 Actual vs. 2011–12 Actual)
Total expenses	3,307	2,484	2,270	823	214
Total revenues	0	0	0	0	0
Net cost of operations before government funding and transfers	3,307	2,484	2,270	n/a	214
Departmental net financial position	n/a	(37)	24	n/a	(61)

The variance between the actual expenditures of 2011–12 and 2012–13 is due to the direct expenses of hearings held by the Tribunal. In 2012–13, the hearing of two major cases required a substantial amount of Registry time and resources. In addition, one hearing was held out of town, and out-of-town hearings are always more expensive than if they were held in the Tribunal's hearing room in Ottawa. The variance between the planned expenditures for the year and the actual spending is due mainly to a major case that was settled a few weeks prior to the hearing. Expenses for the major hearing, which was expected to last between four to six weeks, did not have to be incurred.

Actual Spending Chart



There have been marginal variances between the actual expenses of the last four fiscal years and they were always maintained well within our spending authority. The sharing of resources between organizations and the lower-than-expected volume of new cases can explain the positive variance. This could well be very temporary, as the Registry does not have control over the number of cases filed by the Commissioner of Competition and private parties.

Condensed Statement of Financial Position

Registry of the Competition Tribunal Condensed Statement of Financial Position (Unaudited) As at March 31, 2013 ($thousands)			
	2012–13	2011–12	$ Change
Total net liabilities	239	230	9
Total net financial assets	77	77	0
Departmental net debt	162	153	9
Total non-financial assets	125	177	(52)
Departmental net financial position	(37)	24	(61)

The Registry of the Competition Tribunal assets and liabilities have been fairly stable over the last two fiscal years. There are no major fluctuations in the amounts reported in the above Condensed Statement of Financial Position.

Financial Statements

The Registry of the Competition Tribunal financial statements can be found on the Tribunal's website.[iii]

Tax Expenditures and Evaluations Report

The tax system can be used to achieve public policy objectives through the application of special measures such as low tax rates, exemptions, deductions, deferrals and credits. The Department of Finance publishes cost estimates and projections for these measures annually in the *Tax Expenditures and Evaluations*[iv] publication. The tax measures presented in the *Tax Expenditures and Evaluations* publication are the sole responsibility of the Minister of Finance.

Section IV: Other Items of Interest

Organizational Contact Information

Registry of the Competition Tribunal
600-90 Sparks Street
Ottawa, ON K1P 5B4

Deputy Head and Registrar: 613-947-0740
Website: www.ct-tc.gc.ca

Endnotes

[i] **Public Accounts of Canada**, http://www.tpsgc-pwgsc.gc.ca/recgen/cpc-pac/index-eng.html
[ii] ***Competition Tribunal Rules***, http://www.ct-tc.gc.ca/Procedures/RulesProcedure-eng.asp
[iii] **Financial Statements of the Competition Tribunal**, http://www.ct-tc.gc.ca/ResourcesRessources/AFS-EFA/AFS-EFA-eng.asp
[iv] ***Tax Expenditures and Evaluations***, http://www.fin.gc.ca/purl/taxexp-eng.asp